M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 1083 Press / ~~Mis.~~

212-213

Dated 25 — 5. 1861.

Not to be folded or roughly handled

No. 212. Read the following Endorsement of the Government of India on a letter from the Secretary to the Government of Fort Saint George, dated 11th March 1861, No. 560, recommending that the Order of May 13th 1853, granting to the Ex-Zamíndár of Divi for his life the three gardens in that Estate, may be modified, so as to leave them the permanent property of the Ex-Zamíndár, subject only to the fixed quit-rent.

No. 851.

Forwarded to the Financial Department for consideration and orders, with reference to Extract No. 1,186, dated 29th April 1853, from that Department.

(By Order.)

(Signed) H. U. BROWNE,
Under Secy. to the Govt. of India.

HOME DEPARTMENT,
1st April 1861.

No. 4,593.

FORT WILLIAM,

FINANCIAL DEPARTMENT,

The 12th April 1861.

Under the circumstances stated above, the Governor General in Council is pleased to comply with the request of the Government of Fort Saint George. The gardens alluded to, will accordingly be the permanent property of the Ex-Zamíndár, subject only to the fixed quit-rent.

By Order of His Excellency the Governor General in Council,

(Signed) C. HUGH LUSHINGTON,
Secy. to the Government of India.

To the Home Department for communication to the Government of Fort Saint George.

No. 854.

Forwarded for information to the Government of Fort Saint George.

(By Order.)

(Signed) A. MONTEATH,
Under Secy. to the Govt. of India.

FORT WILLIAM,
HOME DEPARTMENT,
The 27th April 1861.

No. 213. ORDER THEREON, 25th May 1861, No. 1,083.

Ordered to be communicated to the Board of Revenue, with reference to Proceedings of Government, 11th March 1861, No. 559.

(Signed) J. D. SIM,
Secretary to Government.

No. 4,164.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 13th September 1860.

Read the following letters from W. KNOX, Esq., Collector of Kistna District, to J. D. SIM, Esq., Secretary to the Board of Revenue, Fort Saint George, dated 12th August 1859, and 17th August 1860, Nos. 148 and 180:—

Letter dated 12th August 1859, No. 148.

1. I have the honor to submit for the favorable consideration and orders of the Board of Revenue, a Petition from Rajah Kandragulah Jagunadha Row Gopala Row Bahader, ex-Zemindar of Divi, praying that he and his children may be allowed to enjoy without restriction of time the three gardens now granted to him on a life tenure along with his pecuniary pension of Rupees 300.

2. The three gardens in question are situated in the villages of Modumudy, Viswanadhapully, and Mundapakala, all in the Divi Purganah, and are subject to a fixed rent of Pagodas 20, or Rupees 80 per annum. Their area is given in Mr. Lushington's letter of the 24th December 1852, at *Cutties* $6\frac{1}{10}$. According to subsequent measurements, it is given at C. 7, V. 3, P. 9, or acres 123 nearly.

3. In accordance with the recommendations of the then Collector, the Commissioner of the Northern Circars and the Madras Government, the Government of India bestowed these three gardens on the ex-Zemindar in the following terms—"The Governor General is pleased to sanction the "grant of a life pension of Rupees 300 per month *together with the three gardens* referred to by "the Commissioner Northern Circars in behalf of Rajah Kandragulah Jagunadha Row Gopala Row "Bahader, ex-Zemindar of Divi; the *tenure* to terminate *finally on his death*."

4. The chief ground on which the present request is founded, is that these gardens were private family property long prior to the date of the permanent settlement and totally unconnected with the proprietary right of the Divi Purganah which was created at a more subsequent date or in 1805.

5. This assertion is substantially correct. These gardens are alluded to in the Village accounts dated 1788, as the property of the family, and as the Purganah, which was one of the Company's Havelly or Demesne lands was farmed by the ancestors of the present Zemindar from the Chief and Council in 1770, the gardens were probably planted about that time. All the accounts from 1788 down to 1805 mention the gardens as the property of the family. The rent paid on the gardens up to 1796 appears to have fluctuated in the different years, owing apparently to a charge being made on the crops grown in the gardens after that they paid a fixed rent of Rupees 80 per annum. In 1805, the Purganah was granted to the ancestor of the present Zemindar on a permanent Cowle, and from this down to the present time, the same rent has continued unaltered and has been paid for 53 years.

6. The land enclosed by the gardens has been always deducted from the assessable lands as Porumbok. The fact of there being a fixed rent payable on them from the remotest period is itself an evidence of their being private property, and but for the incidence of their owner becoming subsequently Zemindar of the Estate, the gardens would have continued in the family undisturbed, like any other heritable private gardens similarly situated. Under these circumstances the tenure of these gardens should, I would submit, be limited to the tenure of the pension, which latter alone is connected with the lapsed proprietary right of the Estate.

7. I beg therefore to recommend that the restriction to a life tenure as regards these three gardens may be removed and the property in them declared hereditary in the family of the Petitioner, subject to the payment of the usual rent of Rupees 80.

Letter dated 17th August 1860, No. 180.

Dated 2nd December 1859.

1. In reply to the Proceedings of the Board, No. 4,958, I have the honor to report that the ex-Zemindar of Divi Purganah has been paying the usual rent, 80 Rupees per annum, on the three gardens referred to since 1853. The Taram assessment of these lands, with reference to the adjoining Seri lands, is as follows; but it must be remembered that to enable the land to pay this Shist the trees in the garden must be cut down and the whole cultivated.

Name of the villages in which the gardens are situated.	Extent.	Rate of assessment per acre.	Amount of Taram assessment.	Quit rent per annum.
	Acres G.	R. A. P.	R. A. P.	R.
Modumudy garden.....	73 26	3 5 5	245 14 0	60
Viswanadhapully do.....	33 27	1 5 4	44 13 6	8
Mundapakala do.....	15 11	0 10 2	9 11 9	12
Total.....	122 24	5 4 11	300 7 3	80
Average...	... ...	1 12 4		

2. There was another garden at Nagayalanka village, but it was completely washed away by the river in 1834, and the quit rent of that garden, 20 Rupees, has not since been paid.

3. If water from Government sources is taken, an extra tax will of course be paid, but the ex-Zemindar is unwilling to pay the Taram assessment.

4. I would submit that the Government must have understood the gardens came with the Estate, and were not, properly speaking, his ancestral property, Mr. Lushington in his report* merely stating that they were planted by his ancestors. If the Board be good enough to lay my former letter† before the Government, they will be in a better position to see clearly the facts of the case. Long before the Estate came into the possession of the family, the gardens in question were in its enjoyment on a fixed quit rent, which is paid to this day, from the time of the present incumbent's great grandfather. The Estate was a subsequent acquisition, and its forfeiture should not involve the loss of property, to which there was a prior claim, irrespective of that to the Estate.

* Dated 24th December 1852.

† 12th April 1859, No. 148.

5. The lands in which the gardens are situated are entered in the Porumbok, and separated from the cultivable area. I would look on them in the spirit of the order regarding Asalminha gardens in the Proceedings of Government dated 3rd January last, and continue them without the restriction of a life tenure to the family of the present incumbent, subject to the payment of the same quit rent which has been paid for 64 years. He may now, or in future convert them into freeholds, if he chooses under the rules in force.

9. Government have of late dealt so much more liberally with men of Petitioner's class than they used to do, and the Inam Commissioner has accustomed men to see land held under much less valid titles, remain in the holder's family, that I am led to hope the Board will submit and support the ex-Zemindar's request.

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1. In 1852 the Divi Zemindary was sold for arrears of revenue, and purchased by Government.

2. The circumstances of the Zemindary are fully stated in the letter from the Government of India, dated 13th May 1853, communicating their sanction for the arrangement proposed by the Collector and Commissioner Northern Cirkars, and recommended by Government for the maintenance of the ex-Zemindar which was the grant of a life pension of Rupees 300 per mensem, together with the enjoyment of three gardens which had been planted by his ancestors, "the tenure to terminate finally on his death."

In Ex. Mins. Cons., No. 635, R. D., dated 14th, in Cons., 10th June 1853, No. 530.

3. These gardens include an area of 123 acres as has recently been ascertained by measurement, and were subject to the payment of a Kattubadi Shist of Rupees 80 to the Estate, but the Collector did not in his letter on the subject distinctly explain whether this Kattubadi was in future to be paid to Government by the ex-Zemindar, and it appears from the general tone of the correspondence to have been thought that the grant was to be of the nature of a life Inam.

From Collector of Masulipatam, to Commissioner Northern Cirkars, dated 24th December 1852, in Cons., 17thJ anuary 1853, No. 6.
From Commissioner to Government, dated 17th January 1853. Ex. Mins. Cons., No. 294, R. D., dated 15th, in Cons., 21st March 1853, No. 225.

4. Mr. Knox however now explains that these gardens were the property of the Zemindar's family long before the creation of the Divi Zemindary.

5. They are so entered in the Village accounts of 1788, and as the Divi Purganah which was one of the Company's *Havelly* or Demesne lands was farmed by the ex-Zemindar's ancestors in 1770, the gardens were probably planted about that time.

6. All the accounts from 1788 to 1805 mention the gardens as the property of the family, and the rent which had fluctuated up to 1796, was from that year fixed at Rupees 80 per annum.

7. The Zemindary was not created until 1805, and continued in the family until 1852, the *Kattubadi Shist* on these gardens remaining unaltered in the accounts of the assets.

8. Since the sale of the Zemindary the gardens have continued in the ex-Zemindar's possession subject to the payment of the quit rent in question to Government, which has been regularly discharged.

9. The ex-Zemindar now prays and Mr. Knox supports his prayer that the tenure of the gardens on these terms which has by the Order of the Supreme Government been limited to the life of the ex-Zemindar himself, may be continued to the family without limitation on the grounds of their old established interest in them from a date long anterior to the origin of the Zemindary, and of the nature of their rights in the gardens being altogether distinct from and higher and more intimate than their tenure of the Zemindary under the Istimrar Sunnud.

10. The land included in the gardens has always been deducted from the assessable lands as *Porumbok*, and a fixed rent has been charged on them from the remotest period to which the accounts extend, two circumstances which the Collector cites as evidence of the private proprietary right of the family independently of their subsequently created rights as Zemindars.

11. The Board are prepared to admit that the family of the ex-Zemindar appear to have had distinct and higher rights in these gardens than those which were conferred on them by the Istimrar Sunnud, and they consider that it is these last alone which were transferred by the sale of the Zemindary for arrears.

12. That sale did not alter or weaken the proprietary rights of any of the landholders within the Zemindary, and could not, the Board think, in any way diminish interests possessed by the ex-Zemindar's family irrespective of the creation of the Zemindary.

13. Those interests in the gardens in question were of a nature that has of late years been recognised to the fullest extent, viz., such as result from the undisturbed enjoyment of the lands at a fixed quit rent for a period of 80 or 90 years, and it seems likely that had the fact been brought fully to notice in 1852, the limitation of the tenure of the gardens on the quit rent of Rupees 80 per annum to the life of the ex-Zemindar and present holder would not have been made.

14. Should it be enforced, the ex-Zemindar would have good grounds to complain that a different measure of justice was dealt out to him from that which all Inamdars are receiving under the rules prescribed by Government to the Commissioner, and the Board resolve to recommend strongly to Government that the limitation of the tenure of the gardens which appears to have

REVENUE DEPARTMENT.
FORT SAINT GEORGE,
11*th March* 1861.

No. 560.

J. D. BOURDILLON, ESQ.,
Secretary to the Government of Fort Saint George,

The Secretary to the Government of India, Revenue Department.

SIR,

1. The Divi Estate in the Masulipatam (now Kistna) District was sold in 1852 for arrears of Revenue and purchased on account of Government; and, in the following year,* the Government of India, on the application of this Government, sanctioned the grant to the Zamíndár for his life of three gardens in that Estate, together with a money pension of Rupees a month, which was also restricted to his life.

roceedings Govt. of India, Home Dept., 13th May 1853, No. 391.

2. I am now directed to forward the accompanying Proceedings† of the Board of Revenue with its enclosures on the subject of the gardens in stion. It is now brought to notice that these gardens were the property of the Zamíndár's ily long before the creation of the Divi Zamíndári. In proof of this assertion, it is stated t the gardens are so entered in all the accounts from 1788 to 1805, in which latter year the míndári was formed; that the rent payable on them which had fluctuated up to 1796, was m that year fixed at Rupees 80 per annum; and that since the sale of the property for arrears gardens have continued in the ex-Zamíndár's possession, subject to the payment of the rent.

Dated 13th September 1860, No. 4,164.

3. It appears to this Government that if the fact of the ancient possession of these gardens the family as strictly private property, had been fully brought forward in 1853, the limitation a life tenure would have been neither recommended by this Government nor required by the vernment of India. In point of fact the sale of the Zamíndári did not touch the tenure of se gardens. It is true that if the Government had desired to push the Zamíndár to the utterst, his interest in them might have been attached and sold towards making good his defaults; this in fact was not done, and the gardens therefore still remain the property of the Zamíndár. Under these circumstances I am directed to request the Government of India modify their Order of May 13th 1853, so as to leave the gardens the permanent property of ex-Zamíndár, subject only to the fixed Quit-rent.

I have the honor to be,
Sir,
Your most obedient Servant,

J. D. Bourdillon

Secretary to Government.

d. S. T. Augustin.

No 1593

Fort William

Financial Department

The 12th April 1861

Under the circumstances stated above, the Governor General in Council is pleased to comply with the request of the Government of the Fort St George. The Gardens alluded to, will accordingly be the permanent property of the Ex-Zemindar, subject only to the fixed Quit-rent.

By Order of His Excellency
the Governor General in Council

W. Muir
Secretary to the Govt of India

To The Home Department for Communication to the Govt of the Fort St George

Forwarded for information to the Govt by Fort St George

No 854

By Order &c

A. Shortreed
Under Secy to the Govt of India

Fort William
Home Department
The 27th April 1861

Rome 1859 Desp

From the Secy to the Govt of Fort St George.

Dy 11th
Ry 18th } March
Wh. each pmn Encl. dated 25th April

R:- 580.

With an Encl.

Recommending that the order of May 13, 1853 granting to the Ex Zemindar of Cevi for his life the three gardens in that Estate may be modified so as to leave them the permanent property of the Ex Zemindar, subject only to the fixed Quit-rent.

Forwarded to the Financial Department for consideration and advice with reference to Govt Order dated 13th May 1853 from Financial Department

Rec'd 1st March 1860

R. Clarke
Undersecy to the Govt
Revenue

R20887

(4)

R- 15th October /60 No. 244 245.

R- 11th March /61 — 185 186

Copy in a Letter to Govt 4th June /60 No 79

Revenue 1861 Sept. 11th
Pres: of Govt for May
No. 1139.

From
The Secy to the
Govt of Ceylon
"
Dated 27th April
Recd 11th May 1861
No. 854
Colombo

Complying with the request of Govt of Ceylon I beg leave to forward to the Govt herewith the Garden referred to as the property of the ex-Sawmender of Dewa Estate in the Kalutara District subject only to the fixed Quit Rents

No. 1083. 25th May
With an order

No. 1083

Ordered to be communicated to the Board of Revenue with reference to Proceedings of Govt. 11th March 1861 No. 539.

Colt Sec:
25th May 1861

J. A. S

14 Copies

Bd of Rev. Cyl. 27

No. 212 & 213.

Ch. May R 23d